

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:

LEHMAN BROTHERS SECURITIES AND  
ERISA LITIGATION

This document applies to: All Cases

09 MD 2017 (LAK)

USDS SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>12/4/12</u>
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**PRETRIAL ORDER NO. 44**  
(Pending Motions to Dismiss; Status Conference)

LEWIS A. KAPLAN, *District Judge.*

The Court has considered the responses to Pretrial Order No. 38 and rules as follows:

1. The Court sees no reason to revisit the rulings made in *In re Lehman Bros. Secur. and ERISA Litig.*, 799 F. Supp.2d 258 (S.D.N.Y. 2011) (the "*Class Action*"), or in *In re Lehman Bros. Secur. and ERISA Litig.*, \_\_\_ F. Supp.2d \_\_\_, No. 09 MD 2017 (LAK), 2012 WL 4866504 (S.D.N.Y. Oct. 15, 2012) (the "*California Cases*"), as to the sufficiency of allegations of misstatements, omissions and, where applicable, *scienter* or those bearing on the principles of law governing the timeliness of claims brought under the Securities Act of 1933 or the Securities Exchange Act of 1934. Counsel should expect that these holdings will be incorporated in rulings on the various pending motions, many of which also involve other issues.

2. The parties shall meet and confer, on or before December 23, 2012, with a view to agreeing on a proposed scheduling order that will require conclusion of all discovery in the coming year and on such other matters as may facilitate the preparation of these cases for dispositive motions and, if appropriate, trial. The parties shall submit any joint proposal or, failing agreement, their respective separate proposals to the Court by January 15, 2013. In the event separate proposals are submitted, there shall be no more than one on behalf of plaintiffs and one on behalf of defendants, in each case noting any separate positions of members of these groups. The proposals shall not exceed fifteen pages.

3. The Court will conduct a status and scheduling conference on January 17, 2013 at 10 a.m.

SO ORDERED.

Dated: December 4, 2012



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Lewis A. Kaplan  
United States District Judge